

### **REMARKS**

This is in full and timely response to the non-final Official Action of April 9, 2007. A petition to extend the time for this response to within the first extended month accompanies this paper. Reexamination and reconsideration are respectfully requested.

As an overview, claims 1 to 16 were pending in this application as filed. Each was rejected on various grounds. By this response, it is argued that: (1) as to claims 1 to 6, the JP publication to Yasuhisa, No. JP 2005-160548, was published on behalf of the same Applicant as this application, Nidek Co., Ltd. on June 23, 2005, a date that is later than the filing date of this application, so that Yaasuhisa is not available as a reference in the section 103 combination; (2) claims 8, 11 and 15 are canceled, (3) claims 7, 9, 10, 12, 14 and 16 are amended as noted; and (4) a new claim 17 is added.

### **REJECTIONS UNDER 35 USC §102**

Claims 7, 8, 10 to 12 and 14 to 16 were rejected under 35 USC 102(b) as being anticipated by the patent to Miwa (U.S. 5,841,502). These rejections are respectfully traversed. As amended, claims 8, 11 and 15 are canceled without indicating agreement in or acquiescence in the stated rejection. Moreover, claims 7, 9, 10, 12, 14 and 16 are amended in a way that distinguishes their claimed subject matter from the Miwa patent.

Miwa (USP 5,841,502) discloses an apparatus including measurement means for measuring intraocular pressure of an eye of an examinee and alignment detection means which detects an alignment state between the measurement means and the examinee's eye, which, based on the alignment state detected at the time of returning the measurement means to a reference position, performs a control to prohibit the returning of the measurement means if the returning has a possibility of making the examinee's eye into contact with the apparatus.

However, for the apparatus of Miwa, there are not disclosed any techniques for switching in consideration of a position of a main body of the apparatus with respect to the

examinee's eye at the time of switching of a measurement system. The present invention, in the case of making a nozzle used for intraocular pressure measurement protrude when bringing a mode for measuring eye characteristics to a mode for measuring intraocular pressure protrudes by a predetermined amount toward the examinee's eye, preferably performs switching of a measurement system while preventing a tip of the nozzle from making contact with the examinee's eye. The apparatus of Miwa is a single function apparatus having a function of measuring intraocular pressure only, which neither teaches nor suggests a problem caused at the time of switching a plurality of measurement functions.

Thus, these claims are at the very least distinguish over Miwa for their recitations as amended. By way of example, please refer to the last two amended paragraphs in amended claim 7, and the amended combination of claim 10 including reference among other changes to the switching distinction noted above. The amended combination of claim 9 is dependent on claim 7 and is patentable over the applied art for at least the reason that claim 7 is patentable, and for its own limitations. Amended claims 12 to 14 and 16 are dependent on, or through intervening claims on claim 10 and are likewise patentable over the applied art for at least the same reasons that claim 10 distinguishes over the applied art, and for their own claimed subject matter.

Claim 17 is new and recites the combination of first and second moving units, with the eye characteristic measurement part and an intraocular pressure measurement part, together with the mode switching means for emitting a switching signal between the first and second modes as recited, in combination with a movement control unit as stated. This combination is submitted to be patentable over the art applied to any previous claim.

**REJECTIONS UNDER 35 USC §103**

Claims 1 to 6 were rejected under 35 USC 103(a) as being unpatentable over Miwa in view of Yasuhisa. As noted above, this application is entitled to an actual filing date of March 30, 2004 and priority dates in Japan of March 31, 2003 and February 27, 2004.

Yasuhisa (JP 2005-160548) belongs to Nidek Co., Ltd., which is the same applicant as the present application. In addition, the JP publication date of Yasuhisa is June 23, 2005, which is after the US filing date of the present application, March 30, 2004. Accordingly, the Yasuhisa publication is not available for use against the subject matter of claims 1 to 6 for any reason in that it is later than the actual filing date of this U.S. application. Withdrawal of the rejection is respectfully solicited.

The discussion of Miwa above also notes that there is not mode switching characteristic in Miwa to meet the limitations of the penultimate paragraph of claim 1 as submitted.

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee other than an extension fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 18-0013, under Order No. WEN-0032 from which the undersigned is authorized to draw.

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Respectfully submitted,

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